

PROPOSED ORDINANCE

_____ Building and Housing Code
 _____ Standards
Chapter _____ Chronic Nuisance Premises

- Sec. _____ **Definitions**
- Sec. _____ **Notification that Premises May Be a Chronic Nuisance.**
- Sec. _____ **Determination that Premises is a Chronic Nuisance.**
- Sec. _____ **Citations for Chronic Nuisance Activities; Criminal and Civil Penalties.**
- Sec. _____ **Appeals.**
- Sec. _____ **Liens.**
- Sec. _____ **Rules and Regulations.**

Sec. _____ Definitions.

- A) "Chronic nuisance" shall mean a premises or property that is in violation of this chapter.
- B) "Nuisance" or "nuisance activity" shall mean any of the following activities, conduct or behavior whenever engaged in by premises owners, operators, occupants or invitees to the property:
 - 1. Felonious assault, aggravated assault, assault, or negligent assault as defined in Ohio R.C. 2903.11, 2903.12, 2903.13, 2903.14, or any offense of violence as defined in Ohio R.C. 2901.01;
 - 2. Aggravated menacing, menacing by stalking, or menacing as defined in Ohio R.C. 2903.21, 2903.211, or 2903.22;
 - 3. Inducing panic, making false alarms, or unlawful possession or use of a hoax weapon of mass destruction as defined by Ohio R.C. 2917.31, 2917.32, or 2917.33;
 - 4. Disrupting public services such as, but not limited to, fire and police services as defined in Ohio R.C. 2909.04;
 - 5. Disorderly conduct as defined in Ohio R.C. 2917.11;
 - 6. Discharging firearms in violation of Codified Ordinances § 672.09 or § 672.095;
 - 7. Commission of any drug offense under Ohio R.C. Chapter 2925 or 3719;
 - 8. Compelling or promoting prostitution, procuring, soliciting or loitering to engage in solicitation, or prostitution as defined in Ohio R.C. 2907.21 through 2907.25;
 - 9. Gambling as set forth in Ohio R.C. 2915.02 through 2915.04;
 - 10. Unauthorized possession, sale, or discharge of fireworks as defined in Ohio R.C. 3743.65;
 - 11. Loud noises or disturbing the peace as set forth in Codified Ordinance § 648.09;
 - 12. Barking, howling, dangerous, vicious, or unconfined dog as set forth in Codified Ordinances § 618.01 and § 618.07;
 - 13. Kidnapping, as defined in Ohio R.C. 2905.01;
 - 14. Offenses against justice including obstructing official business, obstructing justice, assaulting a police dog or horse or service dog, resisting arrest, or failure to comply with order or signal of a police officer as defined in Ohio R.C. 2921.31 through 2921.331;

15. Allowing an underage person(s) to possess, or consume alcohol, allowing minors to consume alcohol on the premises (hosting), or selling alcohol to a minor as defined in Ohio R.C. 4301.69.

- C) "Occupant" shall mean the person residing in or having use of a premises. The same person or person can be owner and occupant.
- D) "Operator" shall mean any person, firm, company, corporation, association, including their employees, agents, or contractors that controls, operates, or manages a premise(s).
- E) "Owner" shall mean any person, partnership, firm, company, corporation, association, who alone or jointly with others, shall be in possession of or have control of any premises, or is listed as the owner of a premises on the records the Preble County Auditor.
- F) "Person associated with" shall mean a person who, whenever engaged in a nuisance or nuisance activity, enters, patronizes, visits; attempts to enter, patronize or visit; or waits to enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee, or independent contractor of a premises owner.
- G) "Property" or "premises" shall mean a platted lot or part thereof, or un-platted lot or parcel of land, or plot of land either occupied or unoccupied by any building or structure, equipment, or property of any kind.
- H) "Unit" shall mean an individual residential dwelling in which the occupant(s) have a right to exclusive possession, including but not limited to an individual apartment within an apartment complex or an individual dwelling within a multi-family home.

Sec. _____ Notification that Premises May Be a Chronic Nuisance.

The Police Chief or his or her designee may notify a premises owner in writing that the premises is in danger of becoming a chronic nuisance when any of the following circumstances have occurred at the premises:

When three or more nuisance activities have occurred at a single premises, whether a single family residence or within a multi/apartment residential unit, where each activity occurs on a separate day during a ninety day period; or

When, within a ninety day period, the following number of nuisance activities have occurred at the premises:

Premises with 2, 3, or 4 residential units: 6 nuisance activities;

Premises with 5 to 19 residential units: 14 nuisance activities;

Premises with 20 to 39 residential units: 18 nuisance activities;

Premises with over 40 residential units: 25 nuisance activities; or

When, two or more drug offenses, firearms offenses, or violent crimes occur within a one year period at a single premises, whether a single family residence or within a multi/apartment residential unit; or

Felony violations at a single premises, whether a single family residence or within a multi/apartment residential unit, may be deemed a nuisance.

The notice provided for in paragraph A) of this section shall be deemed properly delivered if:

Sent by certified mail to the address for the owner listed on the records of the Preble County Auditor and not returned as undeliverable; or
It is delivered in person to the owner.

If service of the notice is not perfected by the methods set forth in 1) or 2), then the notice shall be deemed properly delivered if it is posted on the front door of the premises or other conspicuous location on the premises that is the subject of the notice and order and it has been posted for a reasonable amount of time.

The notice provided for in paragraph A) of this section shall contain the following information:

- The street address or legal description sufficient for identification of the premises;
- A factual description of the nuisance activities that have occurred at the premises, including the dates of the nuisance activities and any associated police report numbers;
- A statement that the premises owner shall respond to the Police Chief or his or her designee within ten (10) days of the date of the owner's receipt of the notice with a written plan to abate the nuisance activities that is acceptable to the Police Chief or his or her designee;
- A statement that the cost of future enforcement at the premises as a result of nuisance activities may be billed to the premises owner and could become a lien against the property if not paid.

Sec. _____ Determination that Premises is a Chronic Nuisance.

Whenever the Police Chief or his or her designee determines that an additional nuisance activity has occurred at a premises for which a notice has been issued pursuant to Section _____, and nuisance activity occurs more than thirteen (13) days after the notice has been issued, the Police Chief or his or her designee may determine that the premises is a chronic nuisance and issue an order that the owner abate the nuisance within thirty days (30) of the owner's receipt of the notice. The Police Chief or his or her designee also may calculate the cost of enforcement for this and any subsequent nuisance activities, notify the owner that the owner is being billed for the cost of this and any subsequent nuisance activities, and bill the owner for the cost of enforcement.

The notice and order provided for in paragraph A) of this section shall be deemed properly delivered if:

Sent by certified mail to the address for the owner listed on the records of the Preble County Auditor and not returned as undeliverable; or
It is delivered in person to the owner.

If service of the notice and order is not perfected by the methods set forth in 1) or 2), then the notice shall be deemed properly delivered if it is posted on the front door of the premises or other conspicuous location on the premises that is the subject of the notice and order and it has been posted for a reasonable amount of time.

The notice shall contain the following information:

The street address or legal descriptions sufficient for identification of the premises;
A description of the nuisance activity, or activities for which the premises owner is being billed, including the dates of the nuisance activity or activities;
An order that the nuisance activity be abated; and
A statement that the premises owner may appeal the determination that the owner's premises is a chronic nuisance or may appeal the amount of the bill as provided in Section ____.

A determination that a premises is a chronic nuisance subject to bills for the cost of enforcement pursuant to this Section and subject to citations or criminal prosecution pursuant to Section ____ shall be effective for a two (2) year period beginning on the date the first nuisance activity that is the subject of the first bill for the cost of enforcement delivered to the premises owner for that specific premises occurred.

Sec. ____ Citations for Chronic Nuisance Activities; Criminal and Civil Penalties.

Whoever violates this Chapter or fails to obey any lawful order issued by the Police Chief or his or her designee to abate a chronic nuisance within 30 days or to provide a written plan to abate the nuisance activities within 10 days, is guilty of a misdemeanor of the fourth degree on the first offense and guilty of a misdemeanor of the third degree on the second and subsequent offense. Each day's continuation of a violation or failure to comply is a separate offense.

As an alternative to criminal prosecution, the Police Chief or his or her designee may issue a citation to a person who violates any provision of this Chapter or fails to obey any order to abate a chronic nuisance within 30 days or to provide a written plan to abate the nuisance activities within 10 days.

Citations for nuisance activities shall be imposed based on the number of bills for enforcement delivered to a premises owner for a specific premises within a two (2) year period beginning on the date of the nuisance activity that is the subject of the first bill for the cost of enforcement delivered to the premise owner for that specific premises occurred.

In addition to the citation included in paragraph B), whenever a premises owner has been billed on three more separate dates within a two (2) year period beginning with the date of the nuisance activity that is the subject of the first bill for the cost of enforcement sent to the premises owner for that specific premises, the Police Chief or his or her designee shall issue a citation to the premises owner as follows:

For the fourth bill within a two-year period, an assessment against the premises of two hundred fifty dollars (\$250.00) shall be imposed.

For the fifth bill within a two-year period, an assessment against the premises of five hundred dollars (\$500.00) shall be imposed;

For the sixth bill within a two-year period, an assessment against the premises of seven hundred fifty dollars (\$750.00) shall be imposed;

For each bill after the sixth bill within a two-year period, an assessment against the premises of one thousand dollars (\$1,000.00) shall be imposed.

Sec. _____ Appeals.

A premises owner may appeal the determination of the Police Chief or his or her designee pursuant to Section _____ that a premises is a chronic nuisance, the amount of the bill for the cost of enforcement related to nuisance activities at the premises pursuant to Section ____, or a civil citation issued pursuant to Section _____, within thirty (30) days from the date the notification from the Police Chief or his or her designee that the premises is a chronic nuisance, or within thirty (30) days from the date the bill or citation is issued.

An appeal of the determination that a premises is a chronic nuisance, the amount of the bill for the cost of enforcement related to nuisance activities at the premises, or a citation must be made in writing and directed to _____. A written notification of _____'s determination will be sent within thirty (30) days of receipt of the appeal by the same three methods as described in Section _____.

A premises owner may appeal the _____'s determination that the premises is a chronic nuisance, the determination regarding an amount of the bill for enforcement, or a citation within thirty (30) days from the date that _____'s determination letter is post marked by requesting a hearing before _____. Said determination letter shall state how many days the premises owner has to appeal the assessment.

Sec. _____ Liens.

Bills for enforcement and assessments that are not paid will become liens on the premises to the extent permitted under applicable law.

Sec. _____ Rules and Regulations.

- A) The _____ shall establish rules and regulations for the maintenance of information, notification of violations, calculation of bills for the cost of enforcement services, imposition of fines, determination of whether calls for service are counted for purposes of this Chapter, appeals of decisions made, and all other relevant issues necessary for implementation of this chapter. The rules and regulations and amendments thereto shall be made available for public viewing thirty (30) days prior to their effective date.